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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,928	03/28/2001	George H. Scherr		4270

7590 02/12/2003  
George H. Scherr, Ph.D.  
33 Monee Road  
Park Forest, IL 60466

EXAMINER

DELACROIX MUIRHEI, CYBILLE

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/818,928

Applicant(s)

SCHERR, GEORGE H.

Examiner

Cybille Delacroix-Muirheid

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) 32-77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### **DETAILED ACTION**

The following is responsive to Applicant's election received Nov. 6, 2002.

1. Applicant's election with traverse of Group I, claims 1-31 with a further election of maltodextrin (claim 23) in Paper No. 5 is acknowledged. The traversal is on the ground(s) that essentially the claimed method cannot be made the wet spinning method as asserted in the election/restriction mailed Oct. 2, 2002. The wet spinning method would not produce the claimed pectin foam composition as claimed. Said argument has been considered and has been found to be persuasive. However, the Examiner respectfully maintains that the product as claimed can be made by other materially different polymer-based foam fabrication methods such as those described in USPN 5,916,928 and USPN 5,065,752. Moreover, it is respectfully submitted that each group raises different issues of patentability and would support separate patents.

The requirement is still deemed proper and is therefore made FINAL.

### ***Allowable Subject Matter***

Claims 1-31 are free from the prior art because the prior art does not disclose or fairly suggest Applicant's claimed methods.

### ***Claim Objections***

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2. Claims 1, 4 are objected to because of the following informalities: in claim 1, line 3, after “water”, the term “either” should be deleted. In claim 4, line 4, the term “transistion” should read --transition--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. Claims 1-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "the soluble effervescent compound" in line 9. There is insufficient antecedent basis for this limitation in the claim. Furthermore, the limitation “soluble effervescent compound” is vague and indefinite because one of ordinary skill in the art would not be able to readily determine what is meant or encompassed by such a limitation. The specification does not appear to address this limitation by defining or explaining what is encompassed by such a limitation. Therefore, the metes and bounds of the patent protection desired is unclear. Further clarification is respectfully requested.

5. Claim 8 recites the limitation "the upper limit of the De of the calcium sensitive pectin is 50%" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Please note that the upper limit of the DE of pectin in claim 1 is 30%.

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6. Claims 21, 28 recite the limitation "a wound dressing" in line 1. There is insufficient antecedent basis for this limitation in the claim. Please note that the limitation to a "wound dressing" is not found in claim 1.

7. Claims 29, 30 recites the limitation "the backing" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is respectfully suggested that claims 29 and 30 depend from claim 28.

Concerning claims 21-31, it appears as if these claims are drawn to a method of preparing a wound dressing from the cross linked pectin foam composition prepared according to the process of claim 1. However, claims 21-31 do not appear to clearly set forth the desired method, and as a result the scope of the method claims is unclear. Therefore, Applicant may consider amending the claims to recite a method for preparing a wound dressing from the polyvalent cation cross linked pectin foam composition prepared according to claim 1. For example, claim 21 could be amended to recite --the process of claim 1 further comprising preparing a wound dressing by adding a medicament to the polyvalent cation cross linked pectin foam composition--. Claim 28 could be amended, --the process of claim 1 further comprising preparing a wound dressing by affixing a backing to the polyvalent cation cross linked pectin foam composition. The same suggestions could be applied to claim 31 as well. Or, claim 1 could be amended to incorporate the "wound dressing" limitation.

Finally, claim 31 is vague and indefinite because it requires the use of a low methoxy pectin with a DE of less than 50%; however, claim 1 uses a pectin starting material which has a DE of

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less than 30%. Therefore, the scope of the patent protection desired in claim 31 is not clear.

Further clarification is respectfully requested.

***Oath/Declaration***

8. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

***Conclusion***

Claims 1-31 are rejected.

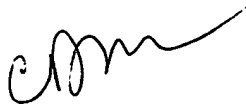
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cybille Delacroix-Muirheid whose telephone number is (703) 306-3227. The examiner can normally be reached on Tue-Fri from 8:30 to 6:00. The examiner can also be reached on alternate Mondays.

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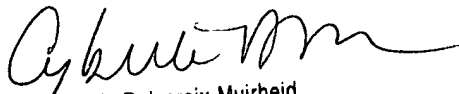
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel, can be reached on (703) 308-4725. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

CDM



Jan. 10, 2003



Cybille Delacroix-Muirheid  
Patent Examiner Group 1600